

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 69

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 63-316, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE MONETARY DISTRIBUTIONS TO COUNTIES FROM SALES TAX REVENUES TO DEFRAY EXPENSES OF COUNTIES IN CONDUCTING ELECTIONS, TO REQUIRE COUNTIES TO ESTABLISH A SPECIAL ELECTION FUND, TO SPECIFY USE OF REVENUES IN THE FUND, TO REVISE REVENUE SHARING PERCENTAGES GOING TO CITIES AND COUNTIES AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-3641, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; PROVIDING AN EFFECTIVE DATE AND TO PROVIDE FOR A REPORT TO BE SUBMITTED TO THE LEGISLATURE IN 2013.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-316, Idaho Code, be, and the same is hereby amended to read as follows:

63-316. ADJUSTMENT OF ASSESSED VALUE – COMPLETION OF ASSESSMENT PROGRAM BY STATE TAX COMMISSION – PAYMENT OF COSTS. (1) Whenever the state tax commission, after a hearing, determines that any county assessor or the county commissioners in assessing property in the county subject to taxation have failed to abide by, adhere to and conform with the laws of the state of Idaho and the rules of the state tax commission in determining market value for assessment purposes, the state tax commission shall order the county assessor and county commissioners of such county to make the necessary changes or corrections in such assessments and if the county assessor and the county commissioners refuse or neglect to comply with such order, the state tax commission is authorized to and shall forthwith adjust or change the property roll in such county.

(2) In lieu of the hearings and actions permitted in subsection (1) of this section, the state tax commission shall monitor each county's implementation of the continuing appraisal required in section 63-314, Idaho Code, and may require each county to file such reports of its progress at implementation of such continuing appraisals as the commission may find necessary. In the event that the commission finds that any county is failing to meet the requirements of section 63-314, Idaho Code, the commission may order that county's indexing or appraisal or reappraisal programs be conducted under the exclusive and complete control of the state tax commission and the results of such programs shall be binding upon the county officers of the county for which ordered. Payments for the actual cost of such programs shall be made from the sales tax distribution created in section 63-3638, Idaho Code, and the amount of such payments shall be withheld from the payments otherwise made under the provisions of section 63-3638(910)(c) and (910)(d), Idaho Code, to the county for which indexing, appraisal

or reappraisal has been ordered, and this subsection shall constitute the necessary appropriation to accomplish such payments, any other provision of law notwithstanding.

SECTION 2. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS – LIMITATION ON TAX CHARGES – EXCEPTIONS. (1) Except as provided in subsection (3) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, plus the dollar amount of moneys received pursuant to section 63-3638(~~123~~), Idaho Code, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(~~101~~), Idaho Code, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November

1 dates provided by section 34-106, Idaho Code. If approved by the required minimum
 2 sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new
 3 budget amount shall be the base budget for the purposes of this section; or

4 (h) When a nonschool district consolidates with another nonschool district or dissolves
 5 and a new district performing similar governmental functions as the dissolved district
 6 forms with the same boundaries within three (3) years, the maximum amount of a budget
 7 of the district from property tax revenues shall not be greater than the sum of the amounts
 8 that would have been authorized by this section for the district itself or for the districts
 9 that were consolidated or dissolved and incorporated into a new district; or

10 (i) In the instance or case of cooperative service agencies, the restrictions imposed in
 11 sections 33-315 through 33-318, Idaho Code.

12 (2) In the case of fire districts, during the year immediately following the election of
 13 a public utility or public utilities to consent to be provided fire protection pursuant to section
 14 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection
 15 (1) of this section may be increased by an amount equal to the current year's taxable value of
 16 the consenting public utility or public utilities multiplied by that portion of the prior year's levy
 17 subject to the limitation provided by subsection (1) of this section.

18 (3) No board of county commissioners shall set a levy, nor shall the state tax commission
 19 approve a levy for annual budget purposes which exceeds the limitation imposed in subsection
 20 (1) of this section, unless authority to exceed such limitation has been approved by a majority
 21 of the taxing district's electors voting on the question at an election called for that purpose and
 22 held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall
 23 be for a period of not to exceed two (2) years.

24 (4) The amount of property tax revenues to finance an annual budget does not include
 25 revenues from nonproperty tax sources, and does not include revenue from levies that are voter
 26 approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies,
 27 school emergency fund levies or for levies applicable to newly annexed property or for levies
 28 applicable to new construction as evidenced by the value of property subject to the occupancy
 29 tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

30 SECTION 3. That Section 63-3638, Idaho Code, be, and the same is hereby amended to
 31 read as follows:

32 63-3638. SALES TAX – DISTRIBUTION. All moneys collected under this chapter,
 33 except as may otherwise be required in sections 63-3203 and 63-3709, Idaho Code, shall be
 34 distributed by the tax commission as follows:

35 (1) An amount of money shall be distributed to the state refund account sufficient to pay
 36 current refund claims. All refunds authorized under this chapter by the commission shall be
 37 paid through the state refund account, and those moneys are continuously appropriated.

38 (2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be
 39 distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

40 (3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously
 41 appropriated and shall be distributed to the water pollution control account established by
 42 section 39-360528, Idaho Code.

43 (4) An amount equal to the sum required to be certified by the chairman of the Idaho
 44 housing and finance association to the state tax commission pursuant to section 67-6211, Idaho
 45 Code, in each year is continuously appropriated and shall be paid to any capital reserve fund,

established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million five hundred thousand dollars (\$4,500,000), of which one million seven hundred sixty thousand dollars (\$1,760,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and the remainder shall be equally divided to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. In no fiscal year shall the total amount allocated for counties under this subsection (8) be less than four million five hundred thousand dollars (\$4,500,000). Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution made pursuant to this subsection (8). All such revenues shall be used exclusively to defray the costs associated with conducting elections as required of county clerks by the provisions of section 34-1401, Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

~~(9)~~ (10) ~~Eleven and five tenths~~ thirty-one hundredths percent (11.531%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the tax commission as follows:

(a) ~~Twenty-eight and two tenths~~ thirty-five hundredths percent (28.235%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) ~~Twenty-eight and two tenths~~ five hundredths percent (28.205%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

- 1 (ii) The balance of such amount shall be paid to the various counties, and each
2 county shall be entitled to an amount in the proportion that the population of that
3 county bears to the population of the state;
- 4 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this
5 subsection (~~9~~10) shall be paid to the several counties for distribution to the cities and
6 counties as follows:
- 7 (i) Each city and county which received a payment under the provisions of
8 section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999,
9 shall be entitled to a like amount during succeeding calendar quarters.
- 10 (ii) If the dollar amount of money available under this subsection (~~9~~10)(c) in any
11 quarter does not equal the amount paid in the fourth quarter of calendar year 1999,
12 each city's and county's payment shall be reduced proportionately.
- 13 (iii) If the dollar amount of money available under this subsection (~~9~~10)(c) in any
14 quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each
15 city and county shall be entitled to a proportionately increased payment, but such
16 increase shall not exceed one hundred five percent (105%) of the total payment
17 made in the fourth quarter of calendar year 1999.
- 18 (iv) If the dollar amount of money available under this subsection (~~9~~10)(c) in
19 any quarter exceeds one hundred five percent (105%) of the total payment made
20 in the fourth quarter of calendar year 1999, any amount over and above such one
21 hundred five percent (105%) shall be paid fifty percent (50%) to the various cities
22 in the proportion that the population of the city bears to the population of all cities
23 within the state, and fifty percent (50%) to the various counties in the proportion
24 that the population of a county bears to the population of the state; and
- 25 (d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection
26 (~~9~~10) shall be paid to the several counties for distribution to special purpose taxing
27 districts as follows:
- 28 (i) Each such district which received a payment under the provisions of section
29 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be
30 entitled to a like amount during succeeding calendar quarters.
- 31 (ii) If the dollar amount of money available under this subsection (~~9~~10)(d) in any
32 quarter does not equal the amount paid in the fourth quarter of calendar year 1999,
33 each special purpose taxing district's payment shall be reduced proportionately.
- 34 (iii) If the dollar amount of money available under this subsection (~~9~~10)(d) in
35 any quarter exceeds the amount distributed under paragraph (i) of this subsection
36 (~~9~~10)(d), each special purpose taxing district shall be entitled to a share of the
37 excess based on the proportion each such district's current property tax budget
38 bears to the sum of the current property tax budgets of all such districts in
39 the state. The state tax commission shall calculate district current property tax
40 budgets to include any unrecovered foregone amounts as determined under section
41 63-802(1)(e), Idaho Code. When a special purpose taxing district is situated
42 in more than one (1) county, the tax commission shall determine the portion
43 attributable to the special purpose taxing district from each county in which it is
44 situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection ~~(910)~~(d).

(vii) For purposes of this subsection ~~(910)~~(d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

~~(101)~~ Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

~~(142)~~ Amounts necessary to pay refunds as provided in subsection (3) of section 63-3641, Idaho Code, to a developer of a retail commercial complex whose stores sell tangible personal property or taxable services subject to the sales and use tax up to an aggregate total of thirty-five million dollars (\$35,000,000) per project shall be remitted to the demonstration pilot

1 project fund created in subsection (3) of section 63-3641, Idaho Code, and shall be specific to
2 and accounted for by each project.

3 (1~~2~~3) Amounts calculated in accordance with subsection (4) of section 63-602KK, Idaho
4 Code, for annual distribution to counties and other taxing districts for replacement of property
5 tax on personal property tax exemptions pursuant to subsection (1) of section 63-602KK, Idaho
6 Code, which amounts are continuously appropriated unless the legislature enacts a different
7 appropriation for a particular fiscal year.

8 (1~~3~~4) Any moneys remaining over and above those necessary to meet and reserve for
9 payments under other subsections of this section shall be distributed to the general fund.

10 SECTION 4. That Section 63-3641, Idaho Code, be, and the same is hereby amended to
11 read as follows:

12 63-3641. TANGIBLE PERSONAL PROPERTY SOLD BY CERTAIN
13 RETAILERS. (1) A developer of a retail commercial complex whose stores sell tangible
14 personal property or taxable services and collected sales or use tax from customers at the
15 location of the developer's retail commercial complex may qualify for a rebate of taxes paid
16 on such purchases, but only if the developer of a retail commercial complex whose stores
17 sell tangible personal property or taxable services has built a complex in Idaho that is of a
18 minimum cost as provided in subsection (2) of this section and has incurred costs in excess
19 of eight million dollars (\$8,000,000) for the installation of an interchange from an interstate
20 highway or a highway enumerated in section 40-201, Idaho Code, by the Idaho transportation
21 department or a political subdivision or a contractor of the transportation department or political
22 subdivision and/or freeway interchange improvements on land owned by the state of Idaho
23 or a political subdivision and/or auxiliary lanes necessitated by the design and construction
24 of interchanges.

25 (2) To qualify for the rebate, the developer of a retail commercial complex whose
26 stores sell tangible personal property or taxable services shall have those stores collect sales
27 and use taxes on sales of tangible personal property or taxable services from the retail
28 commercial complex. Any improvement or alteration to a public highway must be bonded
29 in accordance with the public contracts bond act in chapter 19, title 54, Idaho Code. Once
30 the developer of a retail commercial complex whose stores sell tangible personal property
31 or taxable services certifies that the retail commercial complex has cost a minimum of four
32 million dollars (\$4,000,000) and the developer of a retail commercial complex whose stores sell
33 tangible personal property or taxable services has expended in excess of eight million dollars
34 (\$8,000,000) for the installation of an interchange and/or related interchange improvements
35 from an interstate highway by the Idaho transportation department or a political subdivision or
36 a contractor of the transportation department or political subdivision and/or freeway interchange
37 improvements, the developer may file with the state tax commission a refund request of sixty
38 percent (60%) of the sales and use taxes collected for the sale of tangible personal property or
39 taxable services from stores in the retail commercial complex. The refund request shall state
40 that the developer of a retail commercial complex whose stores sell tangible personal property
41 or taxable services has constructed a retail facility that meets the minimum expenditure
42 requirements and also meets the minimum expenditure requirements for an interchange and/or
43 related freeway interchange improvements and/or highway improvements to be eligible for
44 the rebate, and that the developer is entitled to receive a rebate of sixty percent (60%) of all
45 sales and use taxes collected by the stores in the retail commercial complex that qualifies

for the rebate created by this section. The state tax commission may require that sufficient documentation be provided by the developer of a retail commercial complex whose stores sell tangible personal property or taxable services regarding expenditures and shall require an attestation from the Idaho transportation department or a political subdivision that the minimum requirements of this section have been met. The transportation department or the political subdivision shall verify to the state tax commission the amount of expenditures the developer has expended on the interchange and/or related freeway interchange improvements and/or highway improvements.

(3) Upon filing of a written refund claim by the developer of a retail commercial complex whose stores sell tangible personal property or taxable services entitled to the rebate, and subject to such reasonable documentation and verification as the state tax commission may require, the rebate shall be paid by the state tax commission from the demonstration pilot project fund, which is hereby created in the state treasury, in a timely manner not to exceed sixty (60) calendar days after receipt as funds are available. To qualify for the rebate, stores in an eligible complex shall report their sales to the state tax commission separately from other stores they own in the state. Nothing in this section shall be deemed to hold the state of Idaho or any political subdivision liable for any and all liens filed on a project subject to rebate pursuant to this section. All sales and use tax information remitted by retailers shall be deemed a trade secret, shall be confidential and shall not be disclosed by the state tax commission. A developer of a retail commercial complex whose stores sell tangible personal property or taxable services must submit a claim for refund pursuant to this section within two (2) years of the developer's last expenditure on the interchange and/or related freeway interchange improvements and/or highway improvements. No interest shall be paid by the state on moneys refunded and all moneys refunded shall be paid from the sales tax account pursuant to subsection (1+2) of section 63-3638, Idaho Code, and shall be limited to a total aggregate of thirty-five million dollars (\$35,000,000) or lesser amount if that is what was expended.

(4) Once the developer of a retail commercial complex whose stores sell tangible personal property or taxable services has recouped its costs of funding the interchange and/or related freeway interchange improvements and/or highway improvements and/or related transportation infrastructure, the developer shall be ineligible to receive the rebate pursuant to this section.

(5) As used in this section:

(a) "Development of a retail commercial complex whose stores sell tangible personal property or taxable services" includes all buildings, the parking lot, sidewalks and all accessory equipment including, but not limited to, lighting and traffic signs. Retail stores in the retail commercial complex shall sell tangible personal property or taxable services that are subject to the sales and use tax.

(b) "Freeway interchange improvements" includes on and off ramps, overpass and underpass improvements and signalization to facilitate the effective access from the interstate highway system.

(c) "Highway improvements" shall be improvements or upgrades to highways enumerated in section 40-201, Idaho Code.

SECTION 5. This act shall be in full force and effect on and after January 1, 2010. The Secretary of State and the Idaho Association of Counties shall concurrently submit a report to the Legislature of the actual costs incurred in operating the elections for calendar years 2011 and 2012 by March 1, 2013.